UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

WOODMAN DESIGN GROUP INC.	:	
	:	Civil Action No.
v.	:	3:01 CV 2029 (SRU)
	:	
HOMESTEADS OF NEWTOWN, LLC., et al.	:	

RULING ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This action arises out of a contract between the plaintiff, Woodman Design Group, Inc. ("Woodman Design"), and defendant, The Homesteads of Newtown, LLC ("Homesteads"), pursuant to which Homesteads agreed to purchase from Woodman Design all furniture, furnishings and related items necessary to accommodate an assisted living facility for senior citizens in Newtown, Connecticut (hereinafter referred to as the "Newtown Facility"). Woodman Design avers that it completed its contractual obligations by delivering all of the necessary goods and that Homesteads breached the contract by failing to fully compensate Woodman Design for its services. In the present motion, Woodman Design moves for partial summary judgment, as to liability only, on its breach of contract claim against Homesteads.[1] For the reasons that follow, Woodman Design's motion is denied.

I. BACKGROUND

For purposes of deciding Woodman's Design summary judgment motion, the court must construe the facts in a light most favorable to Homesteads, and must resolve all ambiguities and draw all

[1] In the First Amended Complaint, dated January 15, 2002, Woodman Design brings additional counts against Homesteads as well as other defendants. The present motion pertains solely to Homesteads.

reasonable inferences against Woodman Design. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255-56 (1986); see also Aldrich v. Randolph Cent. Sch. Dist., 963 F.2d 520, 523 (2d Cir. 1992).

Woodman Design specializes in providing interior design services to businesses in the healthcare industry. In part, its services include the recommendation, selection, purchase and installation of furniture, furnishings and related items. At some point prior to February 2001, Woodman Design contracted with Homesteads to supply all furniture, furnishings and related items necessary to accommodate the Newtown Facility. Although no firm price was established, Woodman Design budgeted $534,883 to cover its costs.[2]

In March 2001, Woodman Design delivered certain furniture, furnishings and related items to the Newtown Facility. Interpreting the nonmovant's pleadings in the most favorable light, as the court is required to do, a reasonable jury could find the following facts: At the time they entered into the contract, Woodman Design was aware that a timely and complete delivery of the promised furniture and furnishings was critical to the Homesteads, and that Woodman Design failed to deliver a substantial quantity of furniture and furnishings called for by the contract. As a result of the incomplete delivery, the defendants incurred expenses in excess of $100,000 to purchase the remaining undelivered contracted items, and were forced to delay the opening of the Newtown Facility by two months. In addition, a reasonable jury could conclude that many of the prices charged by Woodman Design for the delivered furniture were overstated or exorbitant.

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[2] The construction financing for the Newtown Facility was obtained by its owners, Linda and Morton Silberstein, from Arbor Commercial Mortgage LLC and was guaranteed by the United States Department of Housing and Urban Development ("HUD").

In or about May 2001, Homesteads agreed to seek a release from HUD of $287,000 to be paid to Woodman Design for the delivered goods. As a result of certain third-party liens that were filed against the Newtown Facility, HUD decided to advance only $150,000.

To date, Woodman Design has received only $150,000 for the contracted goods. Woodman Design claims that Homesteads has failed to fulfill its contractual duty to pay the remaining balance. Homesteads disputes that the contract obligated it to pay a sum certain amount for the contracted goods. In addition, Homesteads argues that Woodman Design breached the contract by failing to deliver all of the contracted goods in a timely manner.

II. Summary Judgment Standard

Summary judgment is appropriate when the evidence demonstrates that "there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Federal Rules of Civil Procedure 56(c); see also Anderson, 477 U.S. at 255-56. A fact is "material" if it "might affect the outcome of the suit under the governing law, under the applicable substantive law." Id. at 248. An issue of fact is "genuine" if "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Id.; see also Adler v. Wal-Mart Stores, Inc., 144 F.3d 664, 670 (10th Cir. 1998).

When deciding a summary judgment motion, the court must construe the facts in a light most favorable to the non-moving party and must resolve all ambiguities and draw all reasonable inferences against the moving party. Anderson, 477 U.S. at 255; Aldrich, 963 F.2d at 523. The moving party bears the initial burden of showing the lack of a genuine issue of material fact and entitlement to summary judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323, 327 (1986);

Langman Fabrics v. Graff Californiawear, 160 F.3d 106, 110 (2d Cir. 1998). If the moving party satisfies its initial burden, the burden shifts to the nonmoving party to "set forth specific facts showing that there is a genuine issue for trial." Anderson, 477 U.S. at 250; see also Goenaga v. March of Dimes Birth Defects Foundation, 51 F.3d 14, 18 (2d Cir. 1995). The nonmoving party may not rest upon the mere allegations or denials of the pleadings, but rather must present sufficient probative evidence from which a rational trier of fact could find for the nonmovant. Celotex, 477 U.S. at 327; Colon v. Coughlin, 58 F.3d 865, 872 (2d Cir. 1995). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof at trial, then summary judgment is appropriate. Celotex, 477 U.S. at 322.

III. DISCUSSION

In order to sustain an action for breach of contact, Woodman Design must demonstrate: 1) the existence of a contract or agreement; 2) Homesteads' breach of the contract or agreement; and 3) damages resulting from the breach. University of New England v. Leeman, 2002 WL 1008446 (Conn. Super. 2002); Brock v. Josephthal, 1995 WL 380097, * 11 (S.D.N.Y. 1995) ("It is black letter law that the burden of proving the existence, terms and validity of a contract rests on the party seeking to enforce it.") (quoting Paz v. Singer Co., 542 N.Y.S.2d 10, 11 (App. Div. 1989)).

In the present action, the parties do not dispute the existence of a contract, or that, pursuant to the contract, Woodman Design delivered certain furniture, furnishings and related items to the Newtown Facility. Rather, the parties dispute the terms of the contract as well as the value and quantity of the goods Woodman Design delivered to the Newtown Facility.

First, Woodman Design claims that it contracted with Homesteads to purchase and supply $387,275.84 worth of goods, that it delivered $387,275.84 worth of goods, and that Homesteads has paid only $150,000 of the total amount due. All Woodman Design provides in support of its claim that Homesteads agreed to purchase $387,275.84 worth of goods, however, is an affidavit of Woodman Design's president, Stephen Woodman, who avers to such an agreement. Woodman Design did not submit the contract to corroborate its claim. In response, Homesteads claims that it never agreed to specifically purchase $387,275.84 worth of goods. Accordingly, because the court is obligated to resolve all ambiguities in favor of the nonmovant, the court must accept as true Homesteads' claims that the contract did not obligate Homesteads to purchase a sum certain amount of goods.

Second, the court must interpret Homesteads' claim that Woodman Design failed to deliver in excess of $100,000 worth of goods as a claim that Woodman Design failed to substantially perform its contractual obligations. If, in fact, Woodman Design did not substantially perform under the contract, then Homesteads is excused from fulfilling its obligations under the contract and Woodman Design would not be able to enforce the contract. See Argentinis v. Gould, 592 A.2d 378 (Conn. 1991) (recognizing that an unexcused failure to render substantial performance precludes recovery of an unpaid balance of contract price because substantial performance is a constructive condition of opposing party's duty to pay balance owed."); see City of New Haven Water Pollution Control Authority v. Town of Hamden, 1995 WL 326098, *2 (Conn. Super. 1995) (noting that a showing of material nonperformance defeats a claim for breach of contract); see also Second Restatement of Contract § 237(d). Further, it is not appropriate, on a motion for summary judgment, for the court to determine the parties' dispute whether Woodman Design substantially performed its obligations under

the contact. Rather, when contested, the question whether a party substantially performed under a contract is a genuine issue of material fact that must be resolved by a jury. T. Lippia & Son, Inc. v. Jorson, 342 A.2d 910, 912 (Conn. Super. 1975) ("The question of substantial performance is ordinarily one of fact.").

Thus, because Homesteads has raised genuine issues of material fact, the court is precluded from granting summary judgment as a matter of law. See Celotex Corp, 477 U.S. at 323, 327.

III. CONCLUSION

For the reasons discussed above, Woodman Design's motion for summary judgment [doc. # 36] is DENIED.

It is so ordered.

Dated at Bridgeport, Connecticut, this 30th day of September 2003.

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Stefan R. Underhill
United States District Judge